

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Jacquelyn J. Loiselle,

Plaintiff,

v.

Michael J. Astrue,

Defendant.

Civil No. 07-2201 (PAM/JJG)

**REPORT
AND
RECOMMENDATION**

This matter returns on a motion, by plaintiff Jacquelyn Loiselle, for attorney fees (Doc. No. 21). Ms. Loiselle is represented by Fay E. Fishman, Esq. Defendant Michael Astrue, the who appears as Commissioner of the Social Security Administration, is represented by Lonnie F. Bryan, Assistant United States Attorney. The motion comes before this Court for a report and recommendation in accordance with 28 U.S.C. § 636 and Local Rule 72.1.

Ms. Loiselle brought action for review of a decision by the Commissioner, arguing that when her application for disability benefits was denied, the decision was not based on substantial evidence. The parties then moved for summary judgment. Through a report on July 28, 2008, this Court determined the decision was not based on substantial evidence. As a result, this Court recommended that Ms. Loiselle's motion be granted; that the Commissioner's motion be denied; and that the decision be reversed and remanded for further proceedings.

The Commissioner did not object to this report, and through an order on August 8, 2008, District Judge Paul Magnuson adopted the recommendation and entered judgment. Because she prevailed in this litigation, Ms. Loiselle brought her current motion under the Equal Access to Justice Act, asking to be awarded fees and costs in the amount of \$5,654.38. The Commissioner

does not oppose this motion. Being duly advised of all the files, records, and proceedings herein,

IT IS HEREBY RECOMMENDED THAT:

1. Loiselle's motion for attorney fees (Doc. No. 21) be **GRANTED**.
2. The Commissioner promptly pay Loiselle, through her counsel of record, attorney fees and costs in the amount of \$5,654.38.

Dated this 3rd day of November, 2008.

s/ Jeanne J. Graham

JEANNE J. GRAHAM
United States Magistrate Judge

NOTICE

Pursuant to Local Rule 72.2(b), any party may object to this report and recommendation by filing and serving specific, written objections by **November 17, 2008**. A party may respond to the objections within ten days after service thereof. Any objections or responses filed under this rule shall not exceed 3,500 words. The district court judge shall make a de novo determination of those portions to which objection is made. Failure to comply with this procedure shall forfeit review in the United States Court of Appeals for the Eighth Circuit.